

ARKANSAS SUPREME COURT

No. CR 06-1384

NOT DESIGNATED FOR PUBLICATION

Opinion Delivered January 25, 2007

HENRY J. BUNCH
a/k/a Henry Jay Bunch
Appellant

v.

STATE OF ARKANSAS
Appellee

PRO SE MOTIONS FOR EXTENSION OF TIME TO FILE APPELLANT'S BRIEF, FOR TRANSCRIPT AND FOR APPOINTMENT OF COUNSEL, AND *PRO SE* PETITION FOR WRIT OF CERTIORARI [CIRCUIT COURT OF WASHINGTON COUNTY, CR 2004-2659, HON. WILLIAM A. STOREY, JUDGE]

MOTIONS FOR EXTENSION OF TIME TO FILE APPELLANT'S BRIEF AND FOR TRANSCRIPT GRANTED; MOTION FOR APPOINTMENT OF COUNSEL DENIED; PETITION FOR WRIT OF CERTIORARI MOOT.

PER CURIAM

Henry J. Bunch, who is also known as Henry Jay Bunch, was convicted of aggravated robbery, three counts of attempted capital murder, felon in possession of a firearm, theft by receiving, possession of methamphetamine, possession of pseudoephedrine with intent to manufacture methamphetamine and simultaneous possession of drugs and a firearm. He was sentenced to an aggregate term of 1,140 months' imprisonment in the Arkansas Department of Correction. The Arkansas Court of Appeals affirmed as modified. *Bunch v. State*, 94 Ark. App. 247, ___ S.W.3d ___ (2006).

Subsequently, appellant filed in the trial court a timely *pro se* petition for postconviction

relief pursuant to Ark. R. Crim. P. 37.1. After a hearing, the trial court denied the petition. Appellant, proceeding *pro se*, lodged a partial record here to preserve the appeal. The circuit court clerk later tendered the remainder of the record to this court.

Now before us are appellant's motions for a copy of the trial transcript lodged on direct appeal and the record lodged in this appeal to prepare his brief and an extension of time to submit the brief. We grant the motion for access to the trial transcript and the record lodged in the instant appeal so that appellant may abstract those portions of the transcript and record pertinent to the appeal, and we direct our clerk to provide appellant with a copy of the transcript and record.

The motion for additional time to prepare the brief is also granted. The appellant's brief must be submitted no later than forty days from the date of this opinion. The copies of the trial transcript and record must be returned to this court when the brief is submitted.

Further, as the circuit court clerk has tendered the remainder of the record in this court, we need not issue a writ of certiorari. We direct the clerk to file the tendered record as a supplemental record in this matter and hold appellant's petition for writ of certiorari moot.

As to appellant's request for appointment of counsel, Rule 37.1 is civil in nature and there is no absolute right to appointment of counsel in civil matters. *See* *Mixon v. State*, 318 Ark. 762, 887 S.W.2d 307 (1994) (*per curiam*); *Virgin v. Lockhart*, 288 Ark. 92, 702 S.W.2d 9 (1986) (*per curiam*). Nevertheless, this court has held that if an appellant makes a substantial showing that he is entitled to relief in a civil action and that he cannot proceed without counsel, we will appoint counsel. *See* *Howard v. Lockhart*, 300 Ark. 144, 777 S.W.2d 223 (1989) (*per curiam*). Here, appellant has failed to make a substantial showing of merit. Accordingly, appellant's motion for appointed counsel is denied.

Motions for extension of time to file appellant's brief and for transcript granted;
motion for appointment of counsel denied; petition for writ of certiorari moot.